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# **HOW NETHERLANDS IS GOVERNED**

# HOW NETHERLANDS IS GOVERNED

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## PREFACE

This is a short brochure on the constitutional and administrative system of *Netherlands*. The purpose of this description is to present an authentic picture of the Government and politics of this great country. It also throws light on almost all the important aspects of its local and central administration and foreign policy.

It may be added that the entire or most of the material of this brochure is based on the fact sheets reference papers and other official publications supplied to us by the Embassy of *Netherlands*. The volume narrates the whole matter, just as it is described in the official publications of the concerned Embassy or Government. Only the sequence has been arranged to make it easier for the reader to understand the subject-matter. We are extremely grateful to the Embassy of *Netherlands* for generously providing us with the material of our interest and extending co-operation in every respect.

It need hardly be added that the publishers do not claim or acknowledge any responsibility for the views expressed or matter described in the volume.

Once again we express our gratitude to the Embassy of *Netherlands* for supplying us material of our interest and extending their kind co-operation.

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HOW  
NETHERLANDS  
IS  
GOVERNED

# 1

## INTRODUCTION

The Netherlands is no mote than a pinpoint on the surface of the globe. The nation of 12,7 millions for whom this pinpoint is their heritage have a mere 15,750 square miles of land at their disposal. And not even the whole of this small area is habitable, because we have to share it with the water, a greedy bedfellow who takes up 2,850 square miles of space in the way of estuaries, lakes and rivers. The water is both friend and foe to the Dutch. It made them seafarers, barge-men, and builders of dykes, harbours and locks. It made their country the gateway to Europe, it is the main source of their wealth, but the price it demands is very high.

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It has also given the Netherlands her comparatively mild climate by directing the warm Gulf Stream along her coasts. Cool summers, mild winters and plenty of rain, sometimes too much for the people who have to live there.

Geologically the Netherlands is still a very young country. It was formed from deposits brought by the rivers Rhine, Meuse and Scheldt, a delta area, in other words. But what the rivers' gave the sea sought to take away. And in this our friend and enemy would certainly have succeeded, if the Dutch had not taken a hand themselves and set about constructing dykes. And that is the high price the people of this country have to pay. There is a saying: God made the world, but the Dutch made Holland. Every country has its share of anecdotes, and the Netherlands is no exception. Most of these stories are fables, the result of romantic flights of fancy distorting the truth. But this particular one is true, with the help of God, the Dutch have indeed created the Netherlands.

The Netherlands and its former South American and Caribbean colonies of Surinam and the Netherlands Antilles together form the Kingdom of the Netherlands, a constitutionally unique structure established under the Charter for the Kingdom of the Netherlands. This Charter, enacted in December 1954, embodies the agreement of partnership voluntarily entered into by the three countries and is at the same time the Constitution of the Kingdom. It takes precedence over the Constitution of the Netherlands in Europe. The latter enacted in 1814, has of course been amended over the years, the most recent amendment dating from 1963. The words 'Netherlands' and 'Constitution' in this book refer to the Netherlands in Europe and to the Constitution of 1963 unless otherwise stated.

# 2

## THE ROYAL FAMILY

### **Her Majesty Queen Juliana**

**J**uliana Louise Emma Marie Wilhelmina, is the Queen of the Netherlands. Her Majesty was born at The Hague on 30th April 1909. On 6th September, 1948 Juliana was inaugurated as Queen of the Netherlands in the New Church next to the Royal Palace in Amsterdam. One of the major acts of government of the new Reign was the transfer of Sovereignty to Indonesia, the instruments of which were also signed by the Republic's first Prime Minister, Mohammed Hatta, in the Burghers' Hall of the Royal Palace in Amsterdam on 27th December, 1949.

### Duties and Responsibilities

The Queen, as Head of State, has numerous duties, many of which, though highly important, are carried out in the seclusion of her study at Soestdijk Palace and so avoid the spotlight of publicity. Her Majesty studies government matters with great thoroughness. She is in regular and direct contact with her Ministers and other holders of public office. Queen Juliana's responsibilities are particularly heavy upon the formation of a new Cabinet during which period she has meeting with the ex ministers, the 'informateur' or 'formateur'—who is responsible for forming the new Cabinet—the Chairmen of both chambers of the States General, the Vice President of the Council of State and Parliamentary leaders of the political parties. The fact that the formation of most of the post war Cabinets has been preceded by prolonged negotiations has meant that the Queen has had repeatedly to devote much to studying the political situation and to consultation.

Her Majesty is President of the Council of State, an advisory body whose function it is to assist the Crown in affairs of State. The Queen's Secretariat is the link between the Sovereign and the Government Departments. The representative duties of Her Majesty as Head of State receive more publicity, since they are attended by greater pomp and circumstance. One of the principal occasions of this kind is the annual opening of the States-General visits to the other countries of the Kingdom namely Surinam and the Netherlands Antilles in Caribbean Area are also part of the royal activities. Since ascending the throne in 1948 the Queen accompanied by Prince Bernhard has paid State visits to many countries of the world. Queen Juliana also regularly receives in audience the heads of diplomatic missions to the Netherlands when they come to present their letters of credence or take their leave. The Queen is also greatly interested in the scientific and cultural life of the country. The Queen often visit the Royal Theatre in the Hague to see plays performed by Dutch or foreign companies. Her Majesty also follows the cultural activities of her husband closely.

Most of the royal duties in the military sector devolve upon Prince Bernhard who is Inspector-General of the Netherlands army navy and air force As Head of State the Queen takes the salute at the march past of three services held once every five years to celebrate the liberation of the Netherland on 5th May 1945 She has also presented colours to various service units on several occasions Her Majesty regularly attends the naval review of the R.N.N. a truly festive occasion

The great importance the Queen attaches to her duties as wife and mother has been evident from the beginning of her reign In her inaugural speech to the members of the States General in September 1948 the young Queen declared I wish to emphasize the fact that the duties of motherhood are just as important for a Queen as they are to any other woman

### **His Royal Highness the Prince of the Netherlands**

His Royal Highness Bernhard Leopold Frederik Everhard Julius Coert Karel Godfried Pieter Prince of the Netherlands devotes much of his time to promoting the interests of Dutch trade and industry and is for instance, a member of the Boards of Directors of the Netherlands Trade and Industries Fair the Royal Netherlands Blast Furnaces and Steelworks K.L.M. Royal Dutch Airlines and the Royal Netherlands Aircraft Factories Fokker In 1936 he met Princess Juliana and their engagement was announced on 8th September the same year. The Prince is an excellent horseman in the best tradition of his family He is also keenly interested in art and in scientific affairs The Prince is an Honorary Member of the Royal Spanish Academy in Madrid The Prince is also Chairman of the European Cultural Foundation the aim of which is to promote mutual understanding and democratic unity among the peoples of Europe

### **Her Royal Highness Princess Beatrix**

Her Royal Highness Beatrix Wilhelmina Armgard Princess of the Netherlands was born at Soestdijk Palace on 31st January 1938 the first child of H.R.H. Princess Juliana and H.R.H. Prince Bernhard Since leaving university the Princess has had time to take a greater part in all manner of activities

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and events both at home and abroad and seizes every opportunity to display her many and varied interests

### His Royal Highness Prince Claus.

Prior to his engagement to H R H Princess Beatrix on 28th June, 1965 Prince Claus was on the Staff of the German Ministry of Foreign Affairs in Bonn. On his engagement to H R H Princess Beatrix Prince Claus resigned from the German Ministry of Foreign Affairs and settled in the Netherlands. In September of that year he began studying in order to learn something of the many different aspects of Dutch life. He was granted Dutch nationality by an Act of Parliament passed on 8th December, 1965. His future titles and change of name were announced in a Royal Decree of 16th February, 1966 which also stated that he would become a Prince of the Royal House on his marriage.

### Her Royal Highness Princess Irene

Her Royal Highness Princess Irene Emma Elisabeth was born at Soestdijk Palace on 5th August 1939. On 9th February, 1964 the engagement was announced of Princess Irene and H R H Prince Charles Hugues de Bourbon de Parme.

Since broad sections of the Dutch public were not in sympathy with Prince Charles Hugues political aspirations, the Princess did not seek as the Constitution requires the permission of the Netherlands Parliament for her marriage which means that she and any children she may have are automatically excluded from succession to the Throne.

The marriage was solemnized on 29th April 1964 by the former Papal Nuncio at the Hague Cardinal Paolo Giobbe, in the Borghese Chapel of the Santa Maria Maggiore Basilica in Rome.

Since their marriage the Princess and her husband have lived Madrid.

## **Her Royal Highness Princess Margriet**

Her Royal Highness Princess Margriet Francisca of the Netherlands, the third daughter of Princess Juliana and Prince Bernhard, was born in Ottawa on 19th January, 1943, during the Second World War. On Wednesday 10th March 1965, Princess Margriet's engagement to Mr Van Vollenhoven was announced. Since Princess Irene's marriage Princess Margriet has been second in order of succession to the throne, which she will remain until such time as a child is born to Princess Beatrix and Prince Claus. The States General's permission for Princess Margriet's marriage which is required in connection with the succession to the throne, was granted in a Kingdom Act passed on 21st July, 1966. The marriage took place in the Hague on 10th January 1967.

### **Mr. Pieter Van Vollenhoven:**

Pieter Van Vollenhoven was born at Schiedam on 30th April 1939. The Princess and Mr. Van Vollenhoven first met in 1963. Mr Van Vollenhoven is greatly interested in international politics. One aspect of this subject to which he devoted special attention as a student is the need for an international police force. October, 1966 Ensign Van Vollenhoven has been stationed in Zeist with the Air Defence Command.

## **Her Royal Highness Princess Christina**

Her Royal Highness princess Maria Christina was born at Soestdijk Palace on 18th February 1947. On 26th June 1965 the Princess obtained her secondary school-leaving certificate. In September, 1966 Princess Christina enrolled at Groningen State University, where she will study for the Teacher's Certificate in Pedagogics.

# 3

## CONSTITUTION AND GOVERNMENT

### **General Survey**

The Netherlands and its former South American and Caribbean colonies of Surinam and the Netherlands Antilles together form the Kingdom of the Netherlands, a constitutionally unique structure established under the Charter for the Kingdom of the Netherlands. This Charter enacted in December 1954, embodies the agreement of partnership voluntarily entered into by the three countries and is at the same time the Constitution of the Kingdom. It takes precedence over the Constitution of the Netherlands in Europe. The latter, enacted in 1814, has of course been amended over the years, the most recent amendment dating from 1963. The

words 'Netherlands' and 'Constitution' in this book refer to the Netherlands in Europe and to the Constitution of 1963 unless otherwise stated

The Constitution is 'rigid', that is to say the procedure for altering it is complicated. A Bill to Change the Constitution has to be passed by both Chambers of Parliament, known in the Netherlands as the States-General. During the reading of the Bill the Lower Chamber retains its ordinary right of amendment. When the Bill has become law and has been given the Royal Assent, both Chambers of Parliament are dissolved and a general election is called to return a new Lower Chamber.<sup>1</sup> The Act must in turn be passed by the two new Chambers a two thirds majority being required in each, this time the Lower Chamber cannot bring in amendments. The Act must again receive the Royal Assent.

Whilst the Constitution is safeguarded by this procedure from undue modification no court, not even the Supreme Court, can suspend a law as being contrary to the Constitution, as is the case for instance in the United States and the Federal Republic of Germany. It is for the Crown, i.e. the Queen and her Ministers and the States-General (Parliament) to decide whether any proposed legislation would be contrary to the Constitution. Their interpretation of the Constitution is binding on all the organs of government including the judiciary. Nor can the Courts declare an international agreement inoperative on the ground of its being in conflict with the Constitution. The Courts can however, abrogate a law that is contrary to an international agreement.

The monarchy is hereditary in both the male and the female line, the latter however succeeding only in default of male heirs. The present reigning monarch is Her Majesty Queen Juliana. The Constitution lays down that the person of the sovereign is inviolable and that the ministers are responsible.

<sup>1</sup> The Upper Chamber is elected not by direct franchise but by the Provincial Councils.

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The chief function of Parliament is the exercise of legislative authority together with the Crown. The States-General also controls the Government by requiring it to account for its policy and by exercising the right to amend Government Estimates. The States-General consists of an Upper Chamber of seventy-five members elected by the Provincial Councils and a Lower Chamber with one hundred and fifty members elected directly.

The supreme advisory body to the Crown, and also the oldest, is the Council of State. The Council's opinion must be sought on all Bills prior to their introduction into Parliament, on international agreements requiring the approval of the States-General and on all general administrative measures. Furthermore, the Council of State discharges an extremely important function in cases of administrative appeals, where it acts as an advisory body to the Crown, the ultimate instance in such cases.

### The Monarch

The ties between the House of Orange and the Netherlands were established in the sixteenth century when William of Orange led the rebellion against Philip II, Sovereign of Spain and of the Low Countries—the present Kingdoms of the Netherlands and Belgium. William of Orange was born Count of Nassau in 1533. While still a child he inherited the independent principality of Orange from a paternal cousin. The title was hereditary in both the male and the female line. He also inherited large estates in the Netherlands. Under Philip's father, Charles V and under Philip, William held the Office of Stadholder, or Governor, of Holland, Zeeland and Utrecht, the Provinces in the Northern Netherlands which later became the centre of the revolt.

1579 saw the establishment of the Union of Utrecht, an alliance comprising several provinces mainly in the Northern Netherlands, under the generally recognized leadership of

William of Orange, who was consequently outlawed by the King of Spain. An unsuccessful attempt to assassinate William instigated by Philip in 1581 was the signal for the allied provinces to abjure their allegiance to the Spanish Crown and to consider vesting the sovereignty in William of Orange. Before that could be realized however William was assassinated (1584).

The Union of Utrecht was the foundation of the young republic which was established by the provinces that had thrown off the Spanish yoke. The descendants of William of Orange became Stadholders invested with various offices. The provinces retained their sovereignty, although the Stadholder was sometimes their master rather than their chief servant.

The Stadholdership became a national instead of a provincial institution in 1747 and was made hereditary in the male and female lines. The last Stadholder fled to England when the French Revolution brought about the end of the Republic of the United Netherlands. During the Batavian Republic, the name given to the French vassal state which the Netherlands had now become, the centralization of the administration continued along the lines laid down in Paris.

In 1814 the Netherlands became a sovereign state under the son of the last Stadholder, who assumed the title of William I, Sovereign Prince. One year afterwards the Netherlands became a kingdom. The male line died out with King William III in 1890, and his daughter, Wilhelmina, ascended the throne. During her minority, which ended in 1898, her mother, Queen Emma, was Regent. Queen Wilhelmina reigned for fifty years, abdicating in favour of her daughter Juliana in 1948. She died in 1963. The heir presumptive to the throne is Queen Juliana's eldest daughter, Her Royal Highness Princess Beatrix.

#### **The Ministers and the State Secretaries**

The Constitution lays down that the Sovereign is inviolable and that the Ministers are responsible. All Act and Royal

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Decrees are signed by the Sovereign and countersigned by the Minister responsible for their formulation and implementation

As in other Western European countries, the ministers hand in their resignation on the eve of the general elections which are held every four years in the Netherlands. To enable her to appoint a new Cabinet, the Sovereign seeks advice as to the current political situation and the desiderata and possibilities with regard to the formation of the Cabinet. The Sovereign's advisers are usually the Vice-President of the Council of State, the Presidents of both Chambers of Parliament and the leaders of all the political groups represented therein, including those represented by only one member.

After their informative talks with the Sovereign, the advisers submit reports on the discussions in writing. The Sovereign consults the reports before appointing a Cabinet 'formateur'. The nominee will usually ask to be allowed to defer accepting the appointment until he is reasonably certain of being able to form a Cabinet and formulate a programme the ministers chosen will be prepared to support. If, after being appointed, the 'formateur' finds he has no hope of succeeding, he will ask the Sovereign to cancel his appointment, whereupon another 'formateur' will be sought.

Several times in recent years, when the formation of a new Cabinet has presented serious difficulties, the Queen has first appointed an 'informateur', to examine ways and means of solving the difficulties. A situation may also arise—as it did in 1963—in which the Queen will prefer to appoint a second "informateur" before proceeding to appoint a 'formateur'. An 'informateur' may also try to act as a mediator, withdrawing to make way for a 'formateur' as soon as his mission is fulfilled.

Once a Cabinet has been formed, 'formateur' advises the Sovereign, who then formally appoints the ministers. In 1963 the Prime Minister was the first then member of the Cabinet to

be appointed, his appointment by Royal Decree was followed by that of the other Cabinet Ministers and by the retirement of those ministers who did not continue in office. The relevant Royal Decrees were countersigned by the new Prime Minister. In accepting their appointment the ministers headed by the Prime Minister, also accept responsibility to Parliament. In the Netherlands it is considered preferable that the formateur should serve as Prime Minister, though it has happened that he has had no function in the Cabinet he himself formed. Neither the new Cabinet nor the Government programme is formally approved by Parliament nor is such approval required by law.

The Cabinet as a whole or an individual minister may resign when it or he no longer wishes to bear responsibility, as for instance when Parliament rejects a Bill, passes an amendment that is contrary to government policy, or adopts a motion of no confidence or censure.

The office of Prime Minister has come to be fully recognized in the Netherlands over the years and is moreover incorporated in the codified constitutional law.

The Prime Minister is primarily responsible for co-ordinating the work of the various Departments. Two Deputy Prime Ministers were appointed by Royal Decree when the present Cabinet was formed in 1965.

The Minister of Finance occupies a special position in the Cabinet in that he can veto proposals to vote funds asked for by other ministers in the annual estimates for their Departments should he consider such proposals undesirable in view of the country's current financial situation. He also supervises the spending of monies already voted to the various Departments, as the latter have to regulate their expenditure through the Ministry of Finance by opening a credit with the Ministry. Under certain circumstances the Minister of Finance may refuse to open a credit in which case, if the Minister concerned insists

on the planned expenditure, an appeal will be made to the Cabinet to mediate or to take a decision in the matter

The Constitution makes provision for Departmental and non Departmental ministers, the latter also being known as *ministers without portfolio*. Non-Departmental ministers are not invariably appointed in each Cabinet

Since 1948 the Constitution provides for the appointment of State Secretaries. The Sovereign may appoint one or more State Secretaries in any Department who may represent the Departmental Minister in such cases as the latter deems necessary

The Prime Minister is responsible for fixing the number of ministries and for nominating the ministers, it is the ministers of the Departments themselves who decide whether they require a State Secretary and who he is to be. However, the appointment of State Secretaries is subject to Cabinet approval and the available functions must be equitably distributed among the political parties represented in the Government

A State Secretary acts as minister for that part of the Departmental activities assigned to him by his minister. At the same time he must follow the directives of his minister. A State Secretary is not therefore a minister, nor is he a member of the Cabinet, although he may be invited to attend Cabinet meetings in an advisory capacity

A State Secretary is responsible to Parliament for his actions when representing his minister. One may ask how he can be held responsible if he is to act in accordance with instructions from his minister. The fact of the matter is that, should he receive instructions for which he cannot accept the responsibility he must resign, just as a minister who cannot agree with a Cabinet decision must resign. A State Secretarship is, then, a political and not an administrative function. The Constitution

lays down that the State Secretary's responsibility for his actions does not prejudice the responsibility of the minister. The minister thus remains answerable to Parliament for what he has delegated to his State Secretary and for his State Secretary's actions. However, should Parliament decide to call the minister to account, it would in fact be encroaching on the preserve of minister to delegate responsibility, which it would not do lightly. When a minister resigns, his State Secretary automatically does likewise. On the other hand, when a State Secretary resigns, it does not automatically follow that the Minister under whom he served gives up his seat in the Cabinet. At the present time there are eleven State Secretaries. The Cabinet or Council of Ministers is composed of all the ministers, including those without portfolio and is presided over by the Prime Minister, who is appointed by the Sovereign. The Council of Ministers of the Kingdom is composed of the Cabinet and the Ministers Plenipotentiary of both Surinam and the Netherlands Antilles.

The Cabinet's most important function is to co-ordinate government Policy. The Cabinet meets whenever necessary, it being customary for a meeting to be held at least once a week, at present on Fridays.

Subjects of consultation and discussion as laid down in the relevant standing orders are

- 1 Bills prior to their being submitted to the Council of State,
- 2 Agreements with other countries,
- 3 Recommendations to the Sovereign on the appointment of senior officials and other persons occupying important offices, including the Presidents of the two Chambers of the States-General, the Vice-President of the Council of State and its other members the Governors of Surinam and the Netherlands Antilles, Her Majesty's Ambassadors, the President and members of the Supreme Court of the Netherlands, the Queen's Commissioners in the Provinces, the Burgomasters of the major towns and the Chiefs of Staff of the Armed Forces

The agenda and minutes of the meetings of the Cabinet and of the various Cabinet Committees are secret but may be made public by the Cabinet or the Committees themselves.

The Council of Ministers of the Kingdom discusses such affairs of State as also concern Surinam and the Netherlands Antilles. The Ministers Plenipotentiary of those countries then attend the meetings of the Cabinet and the relevant permanent and ad hoc Cabinet Committees. In special cases the Governments of Surinam and the Netherlands Antilles are also authorized to delegate ministers to take part in the discussions along with their Ministers Plenipotentiary in an advisory capacity.

#### **The States-General and the Government**

The States General comprises an Upper and Lower Chamber the Lower Chamber being the more important of the two.

The Government's relations with the Lower Chamber, with the Upper Chamber and with the States General as a whole differ considerably in nature and in the form they take. A number of important forms of contact will be discussed below.

#### **The Legislature**

The legislative power is exercised by the Crown and the States General. The Sovereign transmits Bills submitted by the responsible minister(s) to the Lower Chamber after they have been discussed in the Council of Ministers and the Council of State has made its recommendations. When the Bill has been passed by the Lower Chamber it goes to the Upper Chamber. The Government is entitled to recall Bills which have been laid before Parliament. While a Bill is before the Lower Chamber both the Government and the Lower Chamber may amend it. Some very exceptional subjects have to be dealt with

- in joint sittings of the Upper and Lower Chambers, in which case the combined sitting has the right of amendment

When a law applicable equally to Surinam or the Netherlands Antilles or both, and to the Netherlands in Europe is to be passed by the legislature, a Kingdom Bill is submitted to the States General which then acts as the Parliament of the Kingdom. After the Bill has been signed by the Queen and countersigned by the Minister or Ministers responsible, it becomes a Kingdom Act. The Queen sends the Bill simultaneously to the States-General and to the Representative Body of Surinam or the Netherlands Antilles or both. The latter have the right to examine the Bill and, if necessary, report their findings within a specified period of time, before it is publicly debated in the States-General.

The Ministers Plenipotentiary of the countries to which the law will apply are given the opportunity to attend the debates on the Bill in the States General and to participate in them as they consider necessary.

The Representative Bodies of the countries concerned have the right to send special delegates to the sittings of the States-General at which the Bill is to be debated, so that they too may furnish the Chambers with such information on the subject as they think fit.

The Ministers Plenipotentiary and the special representatives are entitled to amend the Bill during the debates in the Lower Chamber of the States-General. Before the Bill is voted in the States General, the Ministers Plenipotentiary of the countries to which the law will apply are afforded the opportunity of expressing their opinion on the proposals contained in the Bill. Should a Minister Plenipotentiary oppose the Bill, he may request the Chamber to postpone voting on it to a subsequent sitting. If the Chamber passes the Bill despite the Minister Plenipotentiary's opposition, but with a majority of less than

three fifths of the votes cast, the debate in the Chamber will be suspended, and further consultations will be held by the Council of Ministers of the Kingdom. When a special representative is present during the debates in the Lower Chamber, the Minister Plenipotentiary's right to oppose a Bill passes to him.

### The approval of international agreements

International agreements concluded by the Kingdom of the Netherlands must be approved by the States General before they can enter into force, with the exception of certain categories listed in the Constitution.

Treaties and agreements are approved either tacitly or by the passing of an Act applying to the Netherlands in Europe or by a Kingdom Act, as the case may be. If the Government does not expect Parliament to call for a debate on the agreement, it submits it, with an explanatory statement, to the States-General and to the Representative Bodies of Surinam or the Netherlands Antilles or both, in cases where either or both of these countries are affected. If neither the Lower nor the Upper Chamber, nor thirty members of the Lower or fifteen members of the Upper Chamber, nor, in the relevant cases, the Ministers Plenipotentiary of Surinam or the Netherlands Antilles or both, have expressed the wish to have the agreement approved by an Act of Parliament within thirty days of its being submitted to the States-General, it is assumed to have been approved by the States-General.

If, within the thirty days and on the said conditions, the wish to debate the agreement is expressed, the Government submits the appropriate Bill to the States-General.

### Parliamentary control

Whereas in legislative matters collaboration is required between Government and the States General, in executive matters

their relationship is marked by a certain dualism. The States General controls the actions of the Government and the Civil Service. Individual ministers are required to account for the actions for which they are responsible. The significance of this aspect of the relationship between the Government and the States General has increased in proportion to the ever growing importance of the administrative side of the executive.

The instruments of control the States General can use are

1. the right to amend—or even reject—the budget,
2. the right of interpellation,
3. the right to put questions to the Government,
4. the right of investigation

The annual Budget is presented in the form of separate Bills for each Government Department. On being introduced into Parliament, these Bills are scrutinized by the Standing Committees of the Lower Chamber—there being one for each Department prior to being debated and voted upon by the plenary Chamber.

The Lower Chamber can exert considerable pressure on Government policy by using its right of amendment during parliamentary debates. It can delete and/or add Budget items. Both Chambers use the debates following the annual Speech from the Throne<sup>1</sup> and the presentation of the Budget Memorandum to scrutinize and discuss the Government's policy. If

<sup>1</sup> The Queen formally opens Parliament on the third Tuesday in September each year by delivering the Speech from the Throne in the Hall of Knights.

either Chamber is opposed to a minister, it may reject his estimate thus causing his resignation

The Standing Orders entitle members of the Upper and Lower Chambers to put questions to the Ministers in order to obtain necessary information. The fact that they are allowed to do so is very important since members usually wish to ask questions on all manner of issues and events. The questions are put and the answers given at public sittings.

In addition the contact between Government and Parliament is intensified in consequence of the petitions submitted to the States General by private persons concerning the administrative practices of Government services and other Government-controlled bodies. Both Chambers have a special committee which deals with petitions and where necessary, requests the relevant ministers to supply information on the subject.

In the event of a conflict between a Chamber and the Government, one of two courses of action may be taken: either the ministers resign and the Queen appoints a new cabinet or the Chamber is dissolved and new one elected. When Parliament is dissolved, elections in respect of both Chambers must be held within forty days and the first meeting must take place within three months of the dissolution.

#### The delegation of administrative functions

As the scope of government activity has extended and begun to affect all sections of public life, the need has arisen for special services and bodies with highly specialized and clearly defined terms of reference. Those that have been established have sometimes been of a temporary nature, though quite often they have been invested with a permanent character. The permanent bodies, however, have seldom been founded on a statutory basis. Most of them have been established by Royal Decree,

e.g. the Coal Board, or have been similarly regularized after their establishment.

In view of the considerable influence these bodies may sometimes exercise, the 1932 amendment of the Constitution included an Article which laid down that the establishment of permanent consultative and auxiliary government services must be regulated by law, as must their entry into operation, structure, procedure and competence. Thus it was that the Postal Board and the Radio Board were set up.

Another Article of the Constitution provides for the delegation of authority to enact implementary orders to statutory bodies such as, for instance, the Social Economic Council, which has both consultative and executive powers.

Provincial and municipal authorities have also delegated certain powers, especially executive powers, to appropriate bodies, within the limits laid down by the law.

The Netherlands is a strongly centralized state in that a national law takes precedence over a provincial ordinance, and a provincial ordinance takes precedence over a municipal by-law. Any traces of federalism that might have been left by the Republic of the United Netherlands had been eradicated by the time the nation emerged as an independent state after the fall of Napoleon.

The Courts can, by virtue of the foregoing, set aside a provincial ordinance or a municipal by-law if it is contrary to a national law or the constitution. A provincial ordinance can also be quashed by a higher authority (which in the case of the provinces is the Crown, in the case of the municipality it is the provincial authorities, appeal against their decision lying to the Crown) if it is contrary to the law of the land or to the public interest.

# 4

## THE PARLIAMENTARY SYSTEM

### THE STATES-GENERAL

The name States-General was originally used to denote a body composed of representatives of numerous regional units, all owing allegiance to one lord but otherwise independent of each other. The clergy, the nobles and the towns were represented in the States-General, which, in feudal times, was summoned at irregular intervals by the lord of the land to provide him with the revenue he needed and to discuss important matters. During the Republic of the United Netherlands (which lasted from the end of the sixteenth century to the end of the eighteenth) the States-General was a more or less permanent body comprising representatives of seven provi-

nces each of the provinces having one vote. How the representatives would vote was decided beforehand at the meetings of the Provincial States, or Councils, from whom they received their mandate. This procedure often caused considerable delay. In those days the States-General was referred to as a meeting of provincial ambassadors. Although in theory, the provinces were all equal each having one vote, in practice the province of Holland had the greatest influence.

In 1815 the bicameral system was introduced under pressure from the representatives of Belgium, which was then part of the Netherlands. The Upper Chamber was to be a chamber of notables appointed for life by the Sovereign. The Lower Chamber was elected by the Provincial States, which were in turn elected by the three estates, French: 'états', of the time: the nobles, the towns and the country. The political significance of the Upper Chamber during this initial period was very limited, and it was generally regarded as an instrument the Sovereign could wield whenever the Lower Chamber made decisions which were not to his liking. When Belgium seceded from the Kingdom in 1839, the bicameral system was retained.

### The great changes after 1848

The revision of the Constitution in 1848, which took place under the influence of the revolutionary movements outside the Netherlands, brought about great changes. Government 'by estates' was abolished. The members of the Lower Chamber were chosen directly by an electorate whose qualification for the franchise was the payment of a certain minimum amount in national taxation as laid down by the Constitution. Direct suffrage was also introduced in respect of the organs of local governments, i.e. the provincial and municipal councils. The Upper Chamber was retained though its character was changed. It was now elected by the members of the Provincial Councils from among those citizens liable to the highest direct national taxes.

In the 1917 revision of the Constitution the principle of proportional representation for the election of the Lower Chamber was introduced as was that of universal suffrage and the eligibility of women. The requirements for membership of the Upper Chamber were brought into line with those for the Lower Chamber.

It was not until 1922 however, that universal suffrage for both men and women on the system of proportional representation was actually introduced. Only one exception to the rule of proportional representation was retained, i.e. the Upper Chamber continued to be elected by the Provincial Councils.

However, since the Provincial Councils are elected on the same system as the Lower Chamber—i.e. by proportional representation—and by the same electorate the political composition of the Upper Chamber is almost identical with that of the Lower Chamber. Citizens of 21 years and older are entitled to vote. In 1877 the number of seats in the Upper Chamber was fixed at fifty. In 1955 it was increased to seventy-five. The members are elected for a period of six years, every three years half of them retire but they are immediately re-eligible. The minimum age for a member of the Upper Chamber is 25. The member's expenses are reimbursed in accordance with a system laid down by the law. In addition the President received an annual allowance.

The President of the Upper Chamber is appointed by the Sovereign from among the members for a single session, the customary duration of which is one year. In 1887 the number of seats in the Lower Chamber was fixed at one hundred. In 1956 this number was increased to a hundred and fifty since the activities of the Chamber had increased considerably in the course of the years.

The members of the Lower Chamber are elected for a period of not more than four years. When the Chamber is dissolved the members are immediately re-eligible.

The minimum age is 25 years. The President of the Lower Chamber is appointed for each session, which usually lasts one year, by the Sovereign from a list of three nominees drawn up by the Chamber. It is customary for the man whose name heads the list to be appointed. The members of the Lower Chamber receive an allowance and travelling expenses. The President is granted an additional allowance. Retiring members receive a pension for each year of their membership.

#### **Regulations relating to both Chambers**

Nobody can sit in both Chambers at once. Ministers and State Secretaries cannot be members of either Chamber. They have the right to appear in both Chambers and to speak whenever they wish to but they have no vote. Should they be elected to Parliament at a general election, they may hold their seat and continue in their function of Minister or State Secretary for a period of not longer than three months during which time they must decide which function they prefer.

There are a number of other offices which a Member of parliament cannot hold. He may not be a member of the Council of State, of the Supreme Court, of the General Auditing Court, nor may he be a Queen's Commissioner in the Provinces.

Members of Parliament, Ministers and State Secretaries and their advisers cannot be prosecuted for what they have said in Parliament or for anything they have submitted to Parliament in writing.

Parliamentary debates are open to the public though the public can be denied access if one tenth of the members present should so desire, or if the President considers it necessary. The Chamber then decides whether the sitting shall be continued in secret. This may occasionally happen. The Chamber may take decisions during a secret sitting. Parliamentary debates are sometimes broadcast on radio or television. The broadcas-

ting corporations themselves decide whether a debate is to be broadcast but they must first obtain permission from the President of the Chamber. Parliament generally welcomes such broadcasts. The Government has no say in the matter.

The ordinary session of the States General is opened on the third Tuesday in September by the Queen or by a proxy appointed by her. As a rule the Queen opens the ordinary session of the States General personally by delivering the Speech from the Throne in which she outlines the Government's programme for the coming year.

The Minister of the Interior usually prorogues Parliament by command of the Queen. The ordinary session of Parliament normally ends on the Saturday of the week directly preceding the opening. The parliamentary session therefore lasts almost a year, but that does not mean that debates are held throughout the year. On the dissolution of one or both of the Chambers Parliament is prorogued by the Sovereign.

The Chambers cannot vote by roll call unless more than half of the members are present. It is laid down in the Standing Orders business may be done when, at the opening of the meeting, more than half of the members have signed the roll, even if members leave the Chamber after having signed so that less than seventy six members are actually present. However, if the Chamber proceeds to a vote by roll call and it then transpires that the quorum is not present, the voting is declared invalid and the sitting automatically adjourned. Every member of either Chamber is entitled to demand a vote by roll call.

#### **Joint Sittings**

The Constitution provides that certain matters shall be dealt with by both Chambers in joint sitting. The States-General then acts as a single body. The President of the Upper Chamber presides over the sitting. Parliament is opened and prorogued in joint sitting.

When there is no rightful successor to the Throne, one may be legally appointed. Parliament then meets with double the usual number of members. If the Sovereign is already deceased, the Council of State summons the States-General to meet with double the usual number of members. Elections are held in order to increase the number of members to the required strength.

Other matters requiring joint sittings of both Chambers are those relating to the regency, guardianship, the inauguration of the Sovereign and his taking the oath<sup>1</sup>, and the declaration of war. In a joint sitting the States-General has the rights of investigation and amendment but may not interpellate or initiate legislation.

### Procedure

Each Chamber has its own Standing Orders, which it has drawn up itself, having regard to the provisions of the Constitution.

### The Upper Chamber

The President's duties comprise directing the work of the Chamber, keeping order, submitting questions to Ministers on subjects decided upon by the Chamber, and implementing decisions taken by the Chamber. The President does not usually participate in the debates. Whenever a vote is taken by roll call, he votes last. He appoints the special committees, unless the Standing Orders stipulate otherwise. The President summons the Chamber to meet whenever he considers it advisable or when five members request a sitting, giving their reasons therefor. A member who persistently conducts himself in an unseemly manner can be expelled from the Chamber by the President. The Chamber can extend the suspension of the member for a period not exceeding one session.

<sup>1</sup> A ceremony which according to the Constitution must be held in Amsterdam there is no coronation.

The Chamber is divided by lots into four committees for the preliminary examination of Bills. Each committee examines the whole Bill and has its own rapporteur, the four rapporteurs compile the comments of their respective committees into a single report. There is also a Central Committee composed of the President and the four committee chairmen. The Central Committee decides the order in which the Bills will be dealt with. The Chamber has also several standing committees to obtain information from the Government with regard to certain aspects of Government policy. There is also a special committee which examines petitions and reports on them to the Chamber, where they are then discussed.

### The Lower Chamber

The Standing Orders relating to the Lower Chamber were completely revised in 1966. The President's duties however, are almost identical with those of the President of the Upper Chamber.

Before being laid before the Chamber, all Bills are examined by a committee, which will be either one of the many standing committees or one specially set up for the Bill in question. A great advantage of the latter type of committee is that it is composed of experts on the subject concerned. If the committee meetings have not been held in public a report is drawn up and published giving the questions and comments of the committee followed by a memorandum from the Government containing the relevant Minister's answer. This memorandum, too, is printed and published.

### The rights and privileges of the Chambers

The two Chambers both separately and in joint sitting, have the right of investigation, as laid down in an Act of Parliament. The significance of this right is that the Chambers can,

independently of the Government, inquire into matters relating to Government policy and certain conditions in the country. This right was granted the Lower Chamber in 1848 and the Upper Chamber in 1887. The procedure to be followed is laid down in the relevant Act. Witnesses and experts are obliged to furnish the information desired of them and are liable to apprehension and prosecution should they refuse. However, no one can be compelled to betray the vital interests of his profession, trade or business. Those who by virtue of their rank, profession or office are pledged to secrecy may be exempted from giving evidence.

The foregoing implies therefore that Government servants may refuse to give information. Ministers and ex ministers enjoy the same right so that if an investigation into Government policy is to yield results the Government must be willing to co-operate. However, the very nature of a parliamentary democracy is such that the Government will always co-operate fully, since, should it not do so there would be a serious breach between Government and Parliament. This right of investigation has, however, seldom been used. Parliament has other and simpler means of obtaining information, viz., by inviting the Government to institute an inquiry in the absence of the desired information. It is usually to be expected that the Government will attend to such matters itself since it is the organ of state that is best equipped to deal with the preparation of measures of all kinds.

Yet on occasions the right of investigation has been of great consequence. The most famous inquiry in Dutch parliamentary history was that of 1886 into the operation of the Act prohibiting child labour. The report of the Committee of Inquiry resulted in a series of measures designed to protect workers and in other labour regulations. Other inquiries, in which persons who were not Members of Parliament also participated, related to the position of railway workers in 1903 after a large-

scale strike and to measures to relieve the economic crisis during World War<sup>1</sup>

The parliamentary inquiry into Government policy during World War II, when the Government in exile was not in a position to account to Parliament for its policy, is a more recent example. This inquiry was very thorough and shed considerable light on the policy pursued by the Netherlands Government in London.

Another major right of both Chambers is that of interpellation. This right is closely bound up with the constitutional obligation of ministers to furnish either orally or in writing, such information as may be desired by one or both of the Chambers unless it is in the interests of the nation that such information should be withheld. This right is therefore not exercised by each Member of Parliament individually, it is exercised by each of the two Chambers as a whole, although of course the actual interpellation is initiated by an individual member. However, before a member may interpellate he must ask permission of the Chamber to do so, such permission being granted as often as possible. When the minister has replied, the interpellator or other members who wish to speak may do so, and the minister will again reply. An interpellation concludes with a vote of thanks to the minister for the information given, or, when considered necessary, with a motion embodying specific wishes or with a motion of noconfidence. The ministers need not act in accordance with what is called for in a motion, they can ignore it. In practice this sometimes happens, although the Government will naturally try to put into effect the explicit wishes of the Chamber. Motions of confidence are never proposed. It is assumed that the Chamber has full confidence in the Govern-

<sup>1</sup> In 1967 the Committees on Petitions of the two Chambers proposed that the Act on Parliamentary competence be amended so as to invest the Committees with all the competences envisaged in the Act. In the opinion of the Committees this would make them what they themselves describe as ombuds-commissions.

ment, until the opposite is proved by the voting in one of the two Chambers.

Motions can be introduced in any parliamentary debate, not only in the course of an interpellation

The Lower Chamber has the right of amendment, which is not possessed by the Upper Chamber. This is an indispensable instrument for the legislature. It is therefore frequently used, although in practice a minister, in introducing a Bill, will often adopt a certain point before it is actually proposed as an amendment. The proposal of amendments is carefully regulated to prevent over hasty action on the part of the Chamber. Should a minister advise against the adoption of an amendment and it is made a question of confidence involving his portfolio, the minister must resign if the amendment is adopted notwithstanding. If the Cabinet insists that the minister retain his portfolio and threatens to follow suit if the minister is forced to resign, the result is a Cabinet crisis. On the other hand, it may also happen that, if an amendment is never theless adopted, the minister requests the Sovereign for permission to withdraw the Bill. If permission is granted the matter rests there, unless, of course, either Chamber objects to the Bill's being withdrawn and expresses that objection in a vote of no-confidence.

Another of the States-General's rights is the right to initiate legislation. The appropriate proposals to this end must be made by the Lower Chamber. When a Bill has been passed by the Lower Chamber, it must first be approved by the Upper Chamber—where it is explained and defended by one or more members of the Lower Chamber who have been specially delegated by that Chamber—before being submitted to the Sovereign for the Royal Assent and Signature. In general this right is seldom exercised, as the Government is regarded as the appropriate body for initiating legislation and is also suitably equipped for the purpose which is not the case with the Lower Chamber. Should a Bill initiated by one or more members of the Lower Chamber be adopted by both chambers, the relevant Act is

countersigned by the Minister responsible for its implementation. Although the Upper Chamber does not have the right to initiate legislation nor to amend Bills, no Bill can become law without the prior approval of the Upper Chamber.

The two Chambers send delegates to international and supra-national parliamentary or semi-parliamentary bodies, such as the European Parliament, the Council of Europe, the Assembly of the Western European Union, the Inter-Parliamentary Consultative Council of Benelux and to the North Atlantic Assembly.

# 5

## THE COUNCIL OF STATE

### ***Introduction***

The Council of State, together with the States-General and the General Auditing Court comprise what are known in the Netherlands as the High Colleges of State

The history of the Council of State goes back to the sixteenth century, when an advisory body was set up under the name of 'Conseil d' Etat' by the Emperor Charles V.

A number of articles in the Constitution are devoted to the Council of State, and the Charter for the Kingdom provides for a Council of State of the Kingdom

The Council's composition and procedure are regulated by the Council of State Act of 9th March 1962. The Council of State can be compared to the French Conseil d'Etat but it differs in that it does not make decision in administrative disputes as the French Council does, but merely submits its recommendations to the Crown.

### **Composition**

H M the Queen presides over the Council of State. Other members of the Royal Family who have a seat in the Council are H R H Prince Bernhard and, since 1956, H R H Princess Beatrix.

The Council of State further comprises a Vice-President at present Dr L J M Beel and not more than twenty other members. Not more than ten additional members may be appointed to participate in special Council activities in which case they have the same powers as the ordinary members.

The Council is divided into Sections each of which is concerned with one or more Government Departments, e g General Affairs Foreign Affairs, Justice etc. Each Section is composed of three members and is responsible for preparing matters to be discussed in the Council. There is a separate Section dealing with administrative disputes.

The Council of State of the Kingdom is composed of the same members as the Council of State of the Netherlands in Europe but may also include Surinam or Antillean members. At present there are no such members.

### **Function**

The Sovereign lays before the Council of State all proposals to be submitted by her to the States-General or by the States General to her, and all draft General Administrative Orders.

The Sovereign consults the Council with regard to such agreements with other powers and international organizations as require the approval of the States General, and on all other matters she deems necessary.

The Council of State also considers drafts of annulment decisions proposed by the Crown in pursuance of certain statutory provisions. A municipal by-law, for instance, may be thus annulled if it is contrary to the law or to the commonweal.

Finally, the Council is consulted as and when prescribed by law or a General Administrative Order. For example, the Expropriation Act lays down that the Council must first be consulted before certain decisions concerning expropriation are taken by the Crown.

The Council of State is authorized to recommend to the Crown subjects in respect of which it feels that draft legislation should be introduced into Parliament or that General Administrative Orders should be promulgated. The Council may also express its views on matters it considers to be of particular importance.

Article 46 of the Constitution lays down that in certain very exceptional circumstances—such as on the death of the Sovereign and until such time as a successor or regent is appointed, the Council is entrusted with the exercise of royal authority.

### **The Administrative Disputes Section**

The Administrative Disputes Section is responsible for advising the Sovereign on appeals requiring a decision by the Crown. On the one hand there are special provisions governing appeals, which are laid down in numerous statutory regulations, on the other hand there is the more general appellate procedure as provided for in the *Administrative Orders Appeals Act*. With a few exceptions, this Act provides for appeals to the Crown against orders or decisions emanating from the central Government authorities. Under the special regulations the right of appeal is unrestricted, but under the Act it is made subject to four conditions (the order or decision must be contrary to a generally binding statutory regulation, for instance, or contrary to equity as regards public administration).

The members of the Section are appointed by the Crown the Vice President of the Council acting as Chairman. The Chairman divides the Section into Chambers if necessary. At present there are seven Chambers to each of which the Chairman assigns a certain portion of the overall activities of the Section. Each Chamber is composed of at least three and at most five members including the Chairman. The Chairman of the Section designates the members of the Chambers. The interested parties are summoned to appear at a public meeting of the Section to set out their points of view either personally or through their attorneys.

The Section's recommendations are submitted to the Crown together with a motivated draft for the relevant Royal Decree. If the decision of the Crown deviates from the Section's recommendations it is published, with a statement of the motives that have prompted the decision in the Bulletin of Acts Orders and Decrees together with the report of the Minister who has countersigned it. This report must contain the draft decree submitted by the Section.

# 6

## THE GENERAL AUDITING COURT

The origins of the General Auditing Court go back into the distant past. Early forms of auditing courts are known to have existed in the Middle Ages when the Dukes of Burgundy ruled the Netherlands. They gradually evolved under successive political systems into the body that in 1814—when French rule was brought to an end and the Netherlands became a sovereign state—was given the name of General Auditing Court.

The Constitution of the Kingdom of the Netherlands lays down that there shall be a General Auditing Court whose composition and function shall be regulated by law. The Constitution also stipulates that when a vacancy occurs in the

Auditing Court the Lower Chamber of the States General shall submit a list of three persons to the Sovereign who will appoint one of them to fill the vacancy

The composition and function of the General Auditing Court are largely regulated in the Government Accounting Act of 1927. In accordance with this Act the Auditing Court is composed of three Members in addition two substitute Members are appointed. When a vacancy among the ordinary or substitute members occurs the Auditing Court recommends six candidates to the Lower Chamber of the States General, in compiling the short list for submission to the Sovereign, the States General takes the recommendations of the Court into account as it thinks fit. The Sovereign selects the President from among the Members of the Court without reference to a list of nominees consulting only the Minister of the Interior. The Secretary of the Court is likewise appointed by the Sovereign direct from among three persons proposed by the Court. The staff of the Auditing Court are also appointed promoted and discharged by the Sovereign on the recommendation of the Court where the Court itself is not authorized to do so.

The Members and substitute Members are like the members of the Judiciary appointed for life though the law prescribes that they be retired on attaining the age of seventy. This is to prevent arbitrary dismissal. Only in certain cases laid down by law can they be removed from their function or dismissed by order of the Supreme Court. This system of appointing and discharging the Members (whose salaries are also fixed by law) the secretaries and staff ensures that the independence of the Auditing Court and its officials is properly safeguarded.

The Court is divided into six departments in turn divided into seventeen sections. With a few exceptions the sections work on the premises of the various Ministries. In many cases auditing is also done on the spot by the various offices falling under the jurisdiction of the Ministries.

The Court's system of scrutinizing State revenue and expenditure is essentially a post audit system, i.e. the check takes place after the revenue has been received and the expenditure incurred. This system has proved to have at the same time a markedly preventive effect, especially with regard to expenditure. In pursuance of the Government Accounting Act, the inclusion in the Exchequer Accounts—which are established by statutory enactment—of all items of expenditure incurred, and having been provided for in the Budget, is subject to the approval of the General Auditing Court. Furthermore, as regards Government securities and State undertakings, the law requires that the Executive shall account for its administration to the Legislature by submitting its annual accounts after they have been certified by the General Auditing Court.

The Court approves the expenditure so long as there are no objections in pursuance of the conditions of the Government Accounting Act, which relate exclusively to the legality of the expenditure. Should the Court withhold its approval on these grounds, it informs the Minister concerned, who, if he does not succeed in disposing of the Court's objections, will propose legislation to the effect that the expenditure nevertheless be included in the Exchequer Accounts by the Auditing Court. The Minister concerned is thereby obliged to account to the Legislature for the expenditure which was not accepted by the Auditing Court.

Not only is the General Auditing Court competent to inquire into the legality of the revenue and expenditure but it is also authorized to check the efficiency of the financial administration and the structure of Government services. The Court may not however refuse to approve expenditure on the grounds of its findings as regards efficiency. It must, though, inform the Minister concerned of its comments and objections, and may report to the Minister of Finance and the States-General.

In view of the size and diversity of the machinery of Government, it is obvious that the Court, with its staff of barely two hundred, cannot carry out the whole audit itself. To avoid double work, therefore, it makes use wherever possible of the

reports of the internal audit departments of the Ministries, thereby making spot-checks to see whether the internal control is effected properly. When carrying out its efficiency control the General Auditing Court works in close co-operation with the organization and methods departments of the Ministries, whose reports constitute a useful source of information. This method of working by no means excludes direct control by the Auditing Court where it deems such control necessary.

The Court reports its findings to the Sovereign each year. After the Ministers have been given the opportunity to comment thereon, the Court's report is submitted to the States-General and published by the Lower Chamber, thus also giving press and public access to it.

It will be clear from the foregoing that the way in which the position and function of the General Auditing Court are regulated enables Parliament and the nation to judge the Government's financial administration objectively, thus making an important contribution to democracy in the Netherlands.

Since 1956, the General Auditing Court has participated in the control of the financial administration of the United Nations Organization in New York, the Netherlands having been one of the three Member-States that are invited to undertake this task jointly every three years. The term of the Netherlands has twice been extended and ended in 1965.

# 7

## THE ELECTORAL SYSTEM

### Introduction

In the Netherlands the members of the Lower Chamber of the States-General, the Provincial Councils and the Municipal Councils are elected by universal suffrage. The members of the Upper Chamber are elected by the members of the Provincial Council of the eleven provinces.

The principle of universal suffrage was introduced in 1917. All Dutch subjects are entitled to vote in parliamentary elections, provided they are twenty-one years old or over and are resident in the Netherlands on nomination day. For provincial and municipal elections the same conditions obtain, residence then being required in the relevant

province or municipality Every municipality has its own electoral roll compiled from the civil register of residents

### Proportional representation

Proportional representation was introduced in 1917, its main features being :

- a candidate lists,
- b the whole country forming one constituency and
- c a single preferential vote

Candidate lists signed by at least twenty five electors may be submitted to the Electoral Council on nomination day An elector may not sign more than one list In the Netherlands the political parties themselves do not propose candidates though they are of course closely concerned with the preparations for their nomination

For the purpose of the election of the Lower Chamber the country is divided into eighteen electoral districts Candidate lists may be combined, provided a joint written declaration to that effect is submitted to the Electoral Council The country is regarded as a single constituency, a party bent on winning the maximum number of seats will submit a list in each of the electoral districts When a list of candidates is handed in, it must be accompanied by a declaration confirming that a deposit has been paid into the Treasury This deposit is refunded after the election if the number of votes for that list is more than 75% of the quota, it is otherwise forfeited to the State Thus a party which has been conspicuously unsuccessful in the elections could forfeit its deposit eighteen times This measure is intended to preclude the formation of small parties The whole country being one constituency the seats are divided among the parties which have attained the quota The quota is arrived at by dividing the total number of votes in the whole country by 150 (the number of seats in the Lower Chamber) In 1963 the total number of

votes was 6,258,521 The quota was therefore  $6,258,521 \div 150 = 41,723 \frac{7}{150}$ . The number of seats that can be allotted direct to each candidate list is then fixed. The rest of the seats are allocated to the parties that have obtained the most votes per seat.

The Electoral Council is the highest authority in all matters relating to the elections. The decisions of the Council on the outcome of the election of both the Upper and the Lower Chambers are final.

For the provincial elections each province is also divided into electoral districts, varying in number from two to ten. For municipal elections the municipality usually forms a single electoral district, but may be divided into two or more wards if the number of inhabitants exceeds 20,000. This division in no way alters the single constituency principle but it is important in that it does full justice to regional and local factors in the nomination of candidates. However, in practice the names of the same candidates often appear on all the lists of a particular party, although sometimes in different order. Moreover, the names of certain candidates who are very popular in a certain area are placed at the bottom of the candidate list among the names of those who are almost certain not to be chosen, with the object of attracting votes to the party concerned.

The elector votes by colouring a white dot in a black square red beside the name of the candidate of his choice. The States-General is at present considering a proposal to introduce mechanized voting.

The members of Lower Chamber of the States-General, the Provincial Councils and the Municipal Councils are elected for a period of four years. The elections for each of these bodies are not usually held in the same year. Both the Upper and the Lower Chambers may be dissolved in the course of a session, in which case new elections must be held. However, this does not often happen. The Chambers must be dissolved once a Bill

to amend the Constitution has passed its first reading. In that case too new elections are held.

Nomination day for the Lower Chamber is the second Tuesday in April for the Provincial Councils the second Tuesday in February or the first Tuesday in February should polling day otherwise fall in the week after Easter. Nomination day for the Municipal elections is the third Tuesday in April. The elections are held on the forty third day after nomination day. Not until the Chambers have been dissolved does the Crown fix the date for parliamentary elections.

### Polling Stations

Before polling day every voter receives a personal summons to appear at a specified polling station between 8.00 a.m. and 7.00 p.m. The voter is fined for disregarding the summons. Although he is obliged to appear at the polling station, he is not forced to vote. There is nothing to prevent him leaving his ballot blank though he must deposit it in the ballot box. Voting is not therefore compulsory in the Netherlands though attendance at the polling station is about 95% of the electorate present themselves at the polling stations. The number of spoilt papers is very small and has never exceeded 5% of the total. There is one polling station to every thousand inhabitants. There is a polling staff of three at every polling station who note whether the voters have presented themselves or not. When a voter enters the polling station he is given a ballot which he proceeds to fill in in the polling booth. The ballot is secret. The voter folds his ballot paper and deposits it in the ballot box which is sealed.

The electoral laws lay down that every voter shall be given the opportunity to participate in the elections. After the polling stations have closed at 7.00 p.m. the votes are counted and apportioned among the lists. The number of votes for each candidate is also counted. The votes are counted in public. Every voter is entitled to raise objections to any part of the procedure, and these objections must be included in the report.

drawn up by the polling station All ballots and other documents are sealed and taken to the main polling station of each electoral district There all the data are compiled and sent to the Central Polling station where the election results are worked out The Central Polling Station—which is the Electoral Council in the case of parliamentary elections—announces the names of the winning candidates who are subsequently informed of their election The documentary proof of their election is examined by the body to which they have been elected and to which they are admitted once all the legal requirements have been fulfilled.

The procedure for the election of members of the Upper Chamber is almost identical to the procedure just described These members, however, are chosen for a period of six years, half of them retiring every three years When the Upper Chamber is dissolved, all seventy five members retire at once and new elections are held In that case lots are drawn to decide which of the newly elected members shall retire after three years Nomination day is the second Tuesday in July, polling day twenty three days later When the whole Chamber retires, the Crown fixes the dates of the new elections The members of the Provincial Council propose the candidates Every member of the Provincial Council is entitled to submit a list of candidates which may not contain more than ten names The elections are held during a sitting of the Provincial Council, the votes being counted during the same sitting, The results are sent to the Electoral Council, which works them out and announces the outcome The Electoral Council has five ordinary members, there are three substitute members The seat of the Electoral Council is at the Ministry of the Interior in The Hague

# 8

## THE POLITICAL PARTIES

The political parties in the Netherlands are essentially based on religious and ideological principles

The Netherlands is not divided politically into a progressive and a conservative camp. On the one hand there are the confessional parties, on the other—apart from the small parties—the Socialists and the Liberals. Religious and ideological compartmentalization (i.e. the splitting up into Catholic, Protestant, Socialist and ‘neutral’ groups—not only applies to political parties but has a decisive influence in many other spheres of the community (trade unions, education, broadcasting corporations)

Despite the principle of parliamentary supremacy, there

is a certain dualism between Government and Parliament in that each functions to a fairly large extent independently of the other. This is due to a combination of factors. The Netherlands has an ancient tradition of Government and Civil Service independence; indeed no minister may sit in Parliament. Nor is any one of the parties able to command an absolute majority in Parliament so that every Government is of necessity a coalition Government. The parties forming the coalition therefore tend to put their party principles first and to regard participation in the Government as secondary. It is a characteristic fact that many prominent leaders of the coalition parties *restrain* from taking office in the Administration.

There is a considerable degree of political stability, partly as the result of the denominational and social compartmentalization. Shifts in party support at the elections are relatively slight. The electoral system proportional representation combined with the list system ensures that shifts in party representation in Parliament are likewise slight.

### Distribution of seats in the Lower Chamber since 1946

	1946	1948	1952	1956 <sup>1</sup>	1959	1963	1967
Catholic People's Party (KVP)	32	32	30	33	49	49	50
Labour Party (PvdA)							
Socialists	29	27	30	34	50	48	43
People's Party for Free dom and Democracy (VVD) Liberals	6	8	9	9	13	19	16
Anti-Revolutionary Party (ARP)	13	13	12	10	15	14	13
Christian-Historical Union (CHU)	8	9	9	8	13	12	13

	1946	1948	1952 <sup>1</sup>	1956	1959	1963	1967
Democracy '66	—	—	—	—	—	—	7
Communist Party (CPN)	10	8	6	4	7	3	4
Calvinist Political Party (SGP)	2	2	2	2	3	3	3
Pacifist-Socialist Party (PSP)	—	—	—	—	—	2	4
Agrarian Party	—	—	—	—	—	3	7
Catholic National Party (rightwing Catholic)	—	1	2	—	—	—	—
Calvinist Political Union	—	—	—	—	—	1	1
	100	100	100	100	150	150	150
							850

<sup>1</sup> In pursuance of the 1956 amendment to the Constitution the number of seats was increased from 100 to 150 the distribution of seats was adjusted proportionately.

## AN OUTLINE OF THE PROGRAMMES OF THE PARTIES REPRESENTED IN THE STATES-GENERAL

### (1) The Catholic People's Party (De katholieke volks-partij) (KVP) :

The KVP is the biggest political party in the Netherlands, it has both a party ideology and a party programme. It holds fifty of the one hundred and fifty seats in the Lower Chamber. The KVP is the only party which has held office uninterruptedly since its constitution in 1945. Although its official style contains the word 'Catholic' it cannot be regarded as purely clerical, since non Catholics who subscribe to its programme may also join the party.

The KVP is affiliated to the International Union of Christian Democrats. It attaches great value to close co-operation among all Christian democratic parties in the Netherlands, and cherished the hope that there will ultimately be a single, national Christian democratic party.

One of the salient features of the KVP's activity and operating methods is the way it draws its members into its decision-making and determination of party line. It does so by canvassing the hundreds of KVP study-groups, in which all members can participate, and the KVP youth groups, and by recourse to scores of fact-finding committees, it also organizes conferences and seminars to study problems of national and international politics.

The organizational structure of the KVP corresponds to the division of the country into eighteen electoral districts. The Chairmen of the KVP district branches are ex officio members of the Executive Committee the other members being elected by the Central Committee, which is composed of delegates from the district branches, also fixes party rules and draws up the party budget.

The KVP finances the Political Education Centre, a Catholic political science institute. Its Central Advisory office for local politics advises the Catholic membership of municipal councils.

The KVP publishes a number of periodicals, including (*Politiek*) (*Politics*) a journal devoted to political science, 'De Gemeenteraad' (The Municipal Council) a monthly for municipal councillors, KVP-65 the official party paper 'Politiek Overzicht' (Political Survey), a documentary publication for party officials, and 'Jongeren Voorop' (Youth to the Fore) a periodical for the KVP youth-groups. A separate journal is published for the KVP study groups. The KVP has its own training centre The Rome Institute, in Baarn. The address of the KVP Secretariat is 25, Mauritskade, the Hague.

**The Party Programme :** The goal of the Catholic People's Party is to build, setting out from a Christian view of life, a world of tomorrow that is fit to live in. The Party believes that the aim of all progress must be to give every individual the opportunity to develop freely both spiritually and materially. The KVP regards the family as the Prime unit of human society, to be respected and protected, and helped in the fulfilment of its function. Besides being responsible for himself, man must feel a joint responsibility for his fellow men, wherever they may be.

Christian charity and the need for greater social justice are the KVP's guiding lines in its quest for that which must be achieved for the common good.

In the society envisaged by the KVP, everyone, to whatever group nation race or creed he belongs, must feel secure and have scope to exploit his potentialities to the full.

The KVP then, is striving for a world without want, striving to get rid of the glaring disparity between rich and poor, notably between the rich countries and the poor countries of the world, striving for peace and security through disarmament, though not unilateral disarmament. So long as freedom is threatened, the Netherlands will have to stay well armed within an Atlantic framework. Moreover, through an Atlantic partnership, and similarly through a Europe united, politically, economically socially and culturally, the spiritual and material wellbeing of the peoples concerned can be more effectively increased than by each nation seeking its own advancement. Everyone must have equal opportunities, everyone must have scope to employ his talents, accordingly there must be first rate educational facilities.

The KVP aspires after family happiness through more and better homes and employment opportunities now and in the future. In this context, it is essential to increase not only the prosperity but the well being of the people. The KVP envisages a social and economic democracy, in which everyone

must have reasonable opportunities for private ownership, in the interests of personal advancement, so that the capital required to provide our growing population with employment and houses need not be supplied mainly by the State out of revenue from taxation, but may be provided by as many citizens as possible. The KVP therefore encourages saving and profit-sharing, joint responsibility and co-partnership in industry. The KVP believes in maintaining a reasonable level of taxation in order to be able to guarantee necessary amenities.

Everyone has a right to Social security, anyone who is involuntarily unemployable must be assured of a reasonable standard of living.

The rapid increase in traffic density calls for a policy designed to improve the weakest links in the road network as quickly as possible, and which at the same time embodies bold and far-seeing plans for the future. The KVP demands space for people in their free time. More free time implies the need for more sporting accommodation and more provision for recreation not only in the open air, but indoors, to enable people to enrich their minds by participating in cultural activities.

The KVP rejects both the socialist view that the State should provide as much care as possible for all its citizens and the liberal over-emphasis on freedom. The KVP subscribes to the theory of subsidiarity and to that of the personal responsibility of the individual, who is part of the community and thus shares the responsibility for that community and the other members of it. Of course the individual must be able to exercise his responsibility in freedom, but that freedom must needs be restricted if and in so far as the common interest so demands. The aim of the KVP is to serve that common interest.

## (2) The Labour Party (Partij-van De Arbeid) (PVDA)

The PVDA was founded in 1946 as the result of the amalgamation of the former SDAP, the Latitudinarian Demo-

cratic Union and the Christian Democratic Union. They were joined by a group of ex-CHU members, the independent socialist resistance group whose rallying-point during the Occupation had been the illegal newspaper 'Parool', part of the Catholic resistance group 'Christoffel' and some independents who up to that time had felt no affinity with any of the existing political parties in the Netherlands, based as they mainly were on religious lines.

The PVDA has approximately 143,000 members and is divided into 900 local branches. At the biennial Party Congress during which the policy, organization and financial position of the Party are discussed a National Committee of twenty five members is chosen nine of whom are also members of the Executive Committee. The Party Council, which is composed of representatives of the regional committees, meets several times a year.

In accordance with its aims, the PVDA has within its organization a Protestant a Catholic and a Humanist study-group. It has also a women's league and a youth organization. Its political science institute is the Dr. Wiardi Beckman Foundation.

The PVDA publishes a number of periodicals, including 'Opinie', a journal for party officials, and the political science monthly 'Socialisme en Democratie'. The PVDA is a member of the Socialist International. The address of the national and international secretariat is 31, Tesselschadestraat, Amsterdam. The percentage of votes obtained by the PVDA in various parliamentary elections is as follows:

1946	1948	1952	1956	1959	1963	1967
28.3	25.6	29.0	32.7	30.3	27.99	24.67

From 1956 to 1959 the PVDA was the strongest political party in the Lower Chamber, but after the 1959 elections it had to surrender this position to the KVP.

The Labour Party aims to be a progressive people's party. Its basic programme reaffirms that the democratic socialism it

advocates can be put into practice by the adherents of different religions and philosophies of life. The PVDA accepts the right of churches and religious organizations to their voice in the way of life society will embrace. The PVDA regards the success of its assault on the restrictive political barriers that divide religious and the non sectarian parties as the *sire qua non* for creating a community that lives up to the Dutch people's unity in diversity, and enables the Netherlands to fulfil its obligations within the community of nations.

The breaking down of these barriers has been a fundamental point on the party programme alongside the problems of the moment at every election since 1946.

Other important points are social security provisions, full employment and the equitable dispersal of ownership and income and of liabilities, according to the means available.

By democratic socialism the Party understands a socio-economic order without class distinctions, in which the community is responsible for the planned management of production and the fair distribution of wealth.

The ownership of capital goods should be subordinated to the welfare of the community as a whole and should be used for the effective satisfaction of needs. Against this background, private control should be restricted in so far as the interests of the community require.

The PVDA believes that the means to this end are to be found in an acceptable form of joint consultation in the political, economic and social spheres. The Party's aims on the international plane include the development of several national entities into a supra national community on a footing of international equality. Supporting as it does the Netherlands Government in the matter of co-operation within the United Nations and its organs, the PVDA like-wise co-operates with smaller-scale regional organizations.

The PVDA firmly believes in the importance of the North Atlantic Treaty Organisations and the Western European Union. Its representatives are fervent supporters of European unity.

### (3) The Anti-Revolutionary Party (De Anti-Revolutionaire Partij) (ARP)

The Anti Revolutionary Party is a Protestant party founded on Calvinist principles. It has 1,000 Local associations with a total membership of 100,000. It has thirteen representatives in the Lower Chamber and seven in the Upper Chamber. Its political science institute is the Abraham Kuyper Foundation, which publishes the monthly, 'Anti-Revolutionaire Staatkunde' (Anti-Revolutionary Politics). The Advisory Council prepares reports on urgent problems. The ARP's official weekly is 'Nederlandse Gedachten' (Dutch Ideas). The party Secretariat is established at 3, Abraham Kuyperstraat, the Hague.

The ARP accepts the Bible as the one source of truth and as a guide for political life. It aims to pursue a Protestant policy. It recognizes the State as the servant of God, invested with the sword of authority, and called to uphold justice and to rule the nation for the good of the people. In fulfilling this vocation, the State should respect the limits imposed upon it by the nature of its own office as well as by individual and group vocations and responsibilities. Hence, it advocates the freedom and responsibility of individuals, associations and undertakings, and lays stress on the factor of personal responsibility. Its main guiding principles are the maintenance of authority, freedom of conscience, the moral strength of the people and social justice.

The ARP believes that the economy must be allowed to develop freely and that the means of production and the distribution of products must in so far as possible remain in the hands of the independent entrepreneur, though the Government also has its responsibilities in the matter.

Social policy must be designed to encourage and strengthen the sense of responsibilities both of the individual and of the various groups within the community. The Party demands,

- 1 a freer wages policy with the Government acting in a co ordinating capacity,
- 2 the continuation of efforts towards private ownership
- 3 *co partnership in industry*

The ARP defends the principle of free Protestant education (primary, secondary and academic) and demands financial equality with State schools of Protestant schools. It desires that support be given to everything that can strengthen legal relations between nations. It wishes to be instrumental in fostering the social and economic unity of Western Europe, to which end the North Atlantic Treaty Organization should be strengthened. Finally it firmly believes that assistance to the developing countries should be continued and increased.

#### (4) Christian Historical Union (De Christelijk Historische Unie) (CHU) Founded in 1908

According to the party constitution the guiding principle and touchstone in the exercise of Government should be that which is revealed in the Holy Scriptures, regardless of the actual persons invested with authority. In deciding what exactly that guiding principle and that touchstone are in the sphere of politics, it is not only the explicit words of the Holy Scriptures which are taken into account but also the opinion of the Christian Church and God's guidance in the history of the nations. The State is as such the servant of God and in principle responsible only to Him from whom it derives its authority.

The CHU set out the following guidelines in an election manifesto published in 1963:

If only for reasons of social justice, incisive and effective forms of aid to the developing countries are needed in order to assist their present accelerated development.

All the available building capacity in the country should be employed to reduce the housing shortage that still obtains.

Building should be geared to actual needs more so than it has been in the past: accordingly, many more homes should be built for the lower income groups

Efforts should be redoubled to achieve a still better distribution of the national wealth among all groups of the population, in so doing particular attention should be given to forgotten groups

Every opportunity of private ownership and profit sharing should be exploited. The CHU is in favour of raising old age pensions to a socially acceptable minimum

The chronically ill and handicapped in the Netherlands are in great need of assistance

Maximum employment, stable prices, increased regional industrialization, voluntary contact in the future between Government and industry on economic matters, research and technical training those are the C.H.U.'s desiderata as regards economic policy. The party also maintains that farther-reaching tax reductions would stimulate the country's economic growth. The CHU believes that priority should be given to the establishment of less steeply graduated scale of income tax

The basic requirement as regards agricultural policy is the guarantee of a reasonable living for all those engaged in farming. This aim can be realized through development plans for the agricultural industry. The viability of small farms demands special attention. Referring to the fishing industry, the CHU manifesto states: 'In this day and age it is to be expected that the Government will enable the Netherlands fishing industry to withstand competition in the Common Market.'

The Christian-Historical Union regards independent entrepreneurship—in other words medium and small-sized businesses as an indispensable element in modern society. It is the Government's responsibility, therefore, to create a favourable climate in which such undertakings can develop and their position be strengthened.

The aim of education will, more than ever, have to prepare young people to take their proper place in society. The Government must give more financial support than ever to all forms of secondary, academic and technological education and to vocational training. For equal opportunities for self development must be given to everyone capable of making use of them and, what is just as important, because the development of Dutch society demands to an increasing extent the services of highly skilled and academically trained people. In these times the young and the aged require special attention. By means of a proper subsidy policy, social work among young people on an individual and collective basis can be promoted.

The Government must also give ample support to all forms of sport. Particularly to those that have an educative influence on the young. The extension of recreational facilities is no less important. More transmission time is demanded for both sound and television broadcasting as quickly as possible.

#### (5) The People's Party for Freedom and Democracy (De Volkspartij Voor Vrijheid en Democratie) (VVD)

The VVD is a political organization which considers the freedom of man—whose nature it is to live freely with in a community to be the most valuable of all possessions. It regards the free human spirit as that community's main source of energy.

The VVD acknowledges that real freedom is possible only when it goes hand in hand with responsibility. It is the task of democracy to create the conditions under which such responsibility can be developed to the full. To do so it is first necessary to foster a spirit of independence. In the sphere of politics this presupposes the maintenance of the parliamentary form of government, and in the social sphere the creation of such institutions as guarantee a responsible line of conduct on the part of both employers and employees.

The line of conduct pursued by political and social institutions must be directed towards the achievement of social justice.

by regular day-to day co-operation and in close consultation with all Sectors of the population

With regard to foreign policy the VVD is in favour of co operating in all efforts towards strengthening legal relations between nations Recognizing that right cannot be maintained without might, the VVD acknowledges the necessity of maintaining a modern army and a modern navy and air force, on the one hand to protect the country itself and on the other hand for the purpose of participating in international peace keeping actions

The VVD considers the pursuance of a realistic foreign policy to be essential for the Netherlands It is the Party's wish that the efforts towards the achievement of an international legal order subject to statutory control within the framework of the United Nations shall be continued In this respect, the Netherlands must act forcefully at all times in order to stress the right of the small nations to a voice in the solution of world problems

The party organization is simple The branches in each of the country's electoral districts form a federation The branches send representatives each possessing a vote, to the General Assembly, at which the Central Committee is elected, the Central Committee comprises not less than twenty-seven and not more than twenty-nine members The Executive Committee is composed of a Chairman a Vice-Chairman, a Secretary General a Treasurer and three secretaries The members of the Executive Committee are elected for a period of three years and are immediately eligible for re-election for a second term of office There is also a Party Council, which consists of the members of the Executive Committee, two representatives of each of the local VVD branches, VVD members of the Upper and Lower Chambers of Parliament and fifteen members who are appointed by the Executive Committee The Council's function is to advise and to stimulate the activities of the Party

Members of the VVD who are members of a representative body are responsible to themselves for their decisions and are not bound by any party orders. The members of the VVD who have a seat in a Municipal or provincial council together form the Association of Municipal and Provincial Council Members of the VVD. This Association has eight hundred members. The Party has a total membership of approximately thirty thousand. The address of the Secretariat is 61, Koninginneweg, The Hague.

#### (7) Democracy 1966 (D'66)

The political party Democracy 1966 owes its existence to the conviction that the present political system is urgently in need of renewal. D'66 considers that the ideological differences between the existing political parties (left-right, conservative-progressive, confessional-non-confessional) have become so blurred as to leave the voter no clear alternatives. This is why D'66 advocates first and foremost a complete change of the Political party structure. Its second fundamental demand is for a process of radical democratization, whereby the electorate would have a greater influence on the policy and the composition of an administration and more direct access to members of Parliament. The most important measures D'66 proposes in order to achieve these aims are, first, the election of Prime Ministers by popular vote on the strength of pre-election programmes so as to preclude coalitions subsequently formed departing from the policy set forth in previously published partly programme, and secondly the introduction of the multi-member constituency system of voting. The benefits that D'66 expects from these changes include a strengthening of the ties between voter and Member of Parliament, the latter then being accountable to the former and a reduction of the number of political parties due to the polarization of opinions. Each constituency would be represented in Parliament by two or three Members.

D 66 places great emphasis on the need for increasing and properly safeguarding fundamental rights. This implies, inter

also the inclusion in the Constitution of provisions for full freedom of expression (including freedom of demonstration without prior permission) from the authorities), the recognition of freedom of religious or ideological conviction founded on the equal rights of all spiritual and moral movements, and the liberal admission to the Netherlands of refugees from racial religious or political persecution

The main point of the D 66 foreign policy is that new ways must be found to ease international tension in all parts of the world. As regards East-West relations this implies that NATO should no longer be regarded merely as a symbol of the cold war. D 66 wants the Netherlands to take the initiative in trying to arrange a conference of NATO and Warsaw-Pact countries with a view to exploring the possibilities of political co-operation and a detente throughout the continent of Europe. To help solve the German issue D 66 is in favour of recognizing the Oder Neisse line and the German Democratic Republic. To start negotiations going to end the Vietnam War D'66 considers it essential that the air attacks on North Vietnam be stopped forthwith and not be resumed that the Vietcong be recognized as one of the parties to any peace talks and that an end be put to North Vietnamese infiltration into South Vietnam.

D 66 considers that the Netherlands should take the initiative in getting all countries not involved in the conflict to draft joint proposals aimed at the withdrawal of all foreign troops from Vietnam by a certain date.

As regards the subsequent progress of the European Communities D 66 advocates that efforts should be centered on far-reaching democratization and further geographical expansion.

The party is in favour of raising the contribution of the Netherlands towards development aid to f 900 millions.

D'66 denounces categorically all forms of racial discrimination. Finally, D 66 advocates that the discussion of foreign

policy should take place openly and should constitute an element in political relations within the Netherlands

#### (8) The Agrarian Party (Boerenpartij)

Founded by a group of farmers in protest against the General Industrial and Commodity Boards The Party fought in the elections for the first time in 1963

The Party programme includes the following priority points :

The maintenance and reinstatement of a class of independent farmers and trades-people, the fostering of a sense of personal responsibility among all sections of the population, the reduction of employers' social security contributions, the rejection of the wholly co-operative state, the achievement of a certain balance between free trade and the co-operative system, the abolition of the General Industrial and Commodity Boards, the drastic reduction of income tax and the abolition of land and turnover tax, free trade in agricultural produce and the restriction of numerous subsidies, the abolition of old age pensions and substitution of a system of tax exemption on earnings up to five thousand guilders per annum, so that the self-employed can provide for their own old age.

#### (9) The Pacifist-Socialist Party (De Pacifistisch Socialistische Partij)

The Pacifist-Socialist Party was founded in November 1962 on the initiative of a group of ex-Labour Party members. The party publishes a fortnightly magazine entitled 'Bevrijding' (Liberation). The principle underlying their doctrine is that pacifism and socialism are two inseparables. Consequently, the party rejects every form of force and advocates disarmament at both national and international level. The use of peaceful means in the struggle against injustice is the logical consequence of this attitude. The party's aim is to create a society in which means

of production, land, transport undertakings, banks and insurance companies are brought under public ownership. It denounces political and economic imperialism and all forms of colonialism. It strongly advocates the expansion of the United Nations into a global government with legislative, judicial and police powers dedicated to ensuring maximum freedom for both individuals and peoples.

#### (10) The Communist Party (De Communistische Partij)

The party programme includes the following points :

Planned State control of commerce and industry, the nationalization of all mineral resources such as natural gas, oil, salt and coal, the nationalization of banks, the transport industry and harbour-works, the ship-building industry, Philips, Unilever, the textile industry and other monopolies, insurance companies, loan offices and savings banks.

The Communist Party advocates the organization of industry on the basis of the exclusion of capitalist managements; workers and officials, chosen in Works Councils or Joint Industrial Councils, must be given more say and must participate in wage negotiations, as well as being authorized to conclude for individual enterprises wage agreements that are not bound by collective agreements. The party is in favour of reducing taxation for working married women, prohibiting arbitrary dismissal, reducing the number of working hours per week and providing full payment in slack periods. It believes in abolishing all measures and methods that give rise to unemployment. Such as the Taylor system and the system of overtime permits in those branches of industry where there is unemployment. The Party favours the introduction of a democratic price and quality control system and the promotion of industrial housebuilding to help solve the housing problem.

(11) The Reformed Political Union (Gereformeerde Politieke verbond)

The Party believes in the maintenance and safeguarding of national independence and the freedom of the peoples of the Netherlands. It is therefore against every form of political integration or federation. The Union nevertheless supports Netherlands membership of NATO.

It opposes economic dirigisme and aims at the independence of the Netherlands Bank, which it considers to be a guarantee for the stability of the Dutch florin. Finally, it wishes to encourage housebuilding by promoting the activities of the housebuilding associations.

# 9

## THE PROVINCES AND THE MUNICIPALITIES

### *Introduction*

With the exception of part of the newly reclaimed land in the former Zuyder-Zee, the Netherlands is divided into eleven provinces, which differ greatly from one another in size and population density. This is a consequence of historical factors. Most of the names of the provinces existed in their present form when the first feudal states, out of which the Netherlands was to grow, emerged. The Republic which was proclaimed in 1579, consisted of the seven provinces of Holland, Zeeland, Utrecht, Overijssel, Gelderland, Groningen and Friesland. The region of Drenthe, a sparsely populated

area that did not have full provincial status was also part of the Republic as were the dependencies of Barbant and Limburg which were governed directly by the central government In 1840 the province of Holland was divided into South Holland and North Holland

During the Republic (from 1579 to 1795), each of the united provinces enjoyed a large measure of independence The Netherlands has been a unitary state, composed of the provinces, since 1813 at which time they were all accorded equal status In the Constitution of 1814, the provinces were considered mainly as administrative units, wholly dependent on the central government Farreaching powers were granted the Sovereign, and it was in fact his representatives, the King's Commissioners who governed the provinces in his name although the Constitution had provided for elected provincial administrative bodies However the attitude of the central government to the provinces gradually underwent a change The provinces were so different from one another, that it was found necessary to entrust the management of provincial affairs to provincial governments Provisions to that end were made after the 1848 revision of the Constitution

The Provincial Councils were directly elected by the enfranchised inhabitants of the provinces, which were given control of their own finances It was also laid down that the exercise of authority by the provincial administration was to be regulated by law Under this law, provincial autonomy was formulated more clearly, and could indeed be actually exercised since the provinces were now allowed their own budget, at least for part of their expenditure, in the provisions of 1815, it had been laid down that the anticipated expenditure had to be approved by the Crown and funds were furnished by the national Exchequer The first Section of the fourth Chapter of the Constitution deals with the composition of the Provincial Councils, the second with their powers These are worked out in greater detail in the Provinces Act, which was revised in 1962 The Provincial Councils represent the inhabitants of the provinces Their members are

elected by direct universal suffrage. The seats are divided between the participating political parties according to the proportional representation system. Members of the Provincial Councils are not eligible for certain functions such as those of Minister or Queen's Commissioner, nor can they be employed in the Provincial Executive. The members are elected for a four-year term. They all retire simultaneously and are immediately eligible for re-election. They must be 25 years of age. The number of members in each Council depends on the number of inhabitants in the province: the Provincial Council of South Holland, the most densely populated province, has 83 members; that of Zeeland, the province with the fewest inhabitants, has 43 members. The meetings of the Provincial Councils are open to the public. Council members are reimbursed for their travelling and board and lodging and they receive an emolument for attending the meetings of the Councils, the amount of which is fixed by provincial ordinance.

### The Provincial Executive

The Constitution stipulates that the Provincial Councils shall appoint from among their members a Provincial Executive charged with the day-to-day administration, which shall be carried out in accordance with the statutory prescriptions.

It is the Provincial Executive that is responsible for preparing and implementing provincial ordinances.

The Provincial Executive in each of the provinces consists of six members, who are appointed for four years but may retire at any time during that period. They are immediately eligible for re-election. They receive a salary and have pension rights. Many members of the Provincial Executive hold outside functions as well. The Provinces Act gives the Executive considerable supervisory powers in respect of the municipalities and the District Water Control Boards with the object of aligning local-government policy and of preventing rash decisions being made. For example, decisions by municipal authorities con-

rning the disposal of municipal property or other legal action covered in the provisions of the Municipalities Act must be approved by the Executive. The Executive can request the Crown to annul or suspend a municipal by-law should it be of the opinion that the by law in question is illegal or against the public interest. Furthermore the Provincial Executive is designated as the co ordinating and supervisory body in numerous statutory enactments in which certain functions are delegated to municipal bodies.

### The Clerk

The Clerk of the Provincial Council is appointed by the Council from a list submitted by the Provincial Executive. The Clerk is in charge of the Council Offices, he lends his services to the Queen's Commissioner in the Province and to the Provincial Executive in all matters connected with the administrative duties entrusted to him. All documents emanating from the Provincial Council and the Provincial Executive are countersigned by him.

### The Queen's Commissioner

There is a Queen's Commissioner appointed by the Crown in every province. He is the chairman of the Provincial Council and the Provincial Executive, he has a consultative voice in the former and in the latter an ordinary vote, or the casting vote in the event of an equality of votes.

The Queen's Commissioner has already been mentioned as the man who, after 1813, was chief representative of the central government in the provinces. His position changed radically after 1848, so that office was invested with a more provincial character, this was confirmed by the 1962 Act. The position of the Queen's Commissioner is sometimes said to have a certain duality on the one hand he is the representative of the central government and on the other he is the leading authority in the province. This duality of function is apparent for instance

from the instructions of the Crown relating to the function of the Queen's Commissioners

These include, for example, the provision that the Commissioner must visit a certain part of the province every year and that this be so arranged that each municipality is visited at least once every four years. During his visit he must carefully study the wishes of the inhabitants and must report this findings to the Provincial Executive and to the Minister of the Interior.

With regard to the appointment of Burgomasters, it is the duty of the Commissioner to submit a list of nominees to the Crown. The Commissioner also has executive duties, it is he who is responsible for maintaining law and order should riots or a rebellion break out.

#### Legislation and Government

The Provincial Councils are responsible for regulating and governing the provinces. They enact such ordinances as they consider to be in the interests of the province. Whenever an Act or a regulation of the Crown so requires the provincial authority co-operates in the implementation thereof. The powers of the Councils are regulated by law. The Constitution contains provision for two forms of legislation and government, which provision also applies to both the provincial and municipal authorities viz autonomous (the organization and government of their own territories) and joint (prescriptive co-operation in the implementation of measures enacted by higher authorities). The law lays down that the autonomous government shall be exercised by the Provincial Council except where it is vested in the Provincial Executive or the Queen's Commissioner by virtue of other statutory enactments. Where the Provincial Council is the appropriate body to exercise the autonomous form of government, the Provinces Act states that the joint form shall generally be exercised by the Provincial Executive.

The Chairman and the members of the Provincial Executive are jointly and separately responsible to the Provincial

Council for the Executive's administration and must give the Council any information called for, so long as the furnishing thereof cannot be deemed contrary to the public interest. They are not required to account for decisions in respect of disputes or for the control over the municipal authorities, except as regards the broad outlines thereof. The rule is that such decisions of the Provincial Council or Provincial Executive as are contrary to the law or to the public interest can be quashed or suspended by Crown. The Queen's Commissioner has special powers in this connection. The Provinces Act charges the Queen's Commissioner to deal with and settle matters expeditiously. An ordinance is not enacted, however, if in his opinion it should be annulled because it is contrary to the law or to the public interest. He advises the Council or the Provincial Executive and the Minister of the Interior accordingly within one day. If the Crown has not suspended or annulled the ordinance within a month, it must be implemented.

#### **Finance**

The estimates of provincial revenue and expenditure are drawn up annually by the Provincial Executive in the legally prescribed manner. After the budget has been fixed by the Provincial Council it must be approved by the Crown to become effective. The Council is required to include in the budget such expenditure as the province is legally bound to incur. If it refuses to do so, the Crown intervenes.

The Provincial Executive submits an annual account of provincial revenue and expenditure to the Provincial Council.

The members of the Provincial Executive are personally liable, as is the Queen's Commissioner, for such expenditure as exceeds the provincial budget or has been entered fraudulently under the wrong heading.

### Provincial and Municipal Funds

By virtue of their autonomous position, the provinces and the municipalities have their own sources of revenue, which enable them to carry out the work assigned to them within the framework of the distribution of functions between the various organs of government. Round about the nineteen twenties, revenue was derived mainly from provincial and municipal taxation. Since World War I, however, the same problem has arisen in the Netherlands as has arisen in so many other countries, namely that the revenue from this source is no longer sufficient in view of greatly increased provincial and municipal commitments and because of disparities in local taxation capacity. As a consequence of this development, municipal and provincial authorities have become more and more dependent on revenue from taxes levied by the State and divided up among the various local authorities according to criteria differing from those they themselves can apply for taxation purposes.

At the present moment the situation is such that the general revenue of the provinces and the municipalities consists for a large part of payments from national funds, namely the Provincial Fund and the Municipal Fund. These Funds are fed by the State's setting aside a fixed percentage of the revenue obtained through almost every form of national taxation. Local authorities also receive substantial grants-in-aid direct from the Exchequer to cover the cost of the special responsibilities assigned to them, such as education and police. The revenue from municipal and provincial taxes is of minor importance.

Legal provision has been made for the way in which the revenue provided by the Municipal and Provincial Funds is fixed and paid. As a rule these provisions also apply to the direct Exchequer grants.

In fixing the amount of payments from two Funds, great care is taken to ensure that the independent position of the local

authorities is not impaired and that they do not become too dependent on financial support from the Government.

The sphere of activities of the municipalities is much wider than that of the provinces. The total annual estimates in respect of municipal services and amenities at present amount to 4,000 million guilders, as against 240 million guilders for the provinces. The comparable figure in respect of the central government is 12,000 million guilders. Forty-five percent of municipal expenditure is covered by revenue from the Municipal Fund, another 45% by direct Exchequer grants and only one tenth by municipal taxes. About 50% of the total revenue of the provinces is provided by the Provincial Fund, about one sixth is derived from provincial taxes.

### THE MUNICIPALITIES

The Constitution of the Netherlands, like that of France, for example provides for only one type of administrative unit at local level. In the Netherlands this unit is the municipality. Every town, village or hamlet is incorporated in one of the 965 municipalities. In only one instance in the Constitution is reference made to a town, namely, in the provision that the Sovereign shall be inaugurated within the town of Amsterdam. But this in no way affects Amsterdam's status as a municipality.

In the Netherlands the designation 'town' or 'village' usually has historical or sociological significance. The uniform denomination 'municipality' on the other hand, has a different meaning, all municipalities being organized along the same lines and having the same rights and obligations in respect of the central government, the provincial authorities and in respect of each other. The origins of by far the majority of municipalities are very ancient. Many probably evolved from settlements whose inhabitants engaged in agriculture, fishing or animal husbandry, or settlements which were important to trade owing to their location at the junction at the roads or waterways, or which grew

up around the castle or hunting lodge of a local lord. Some towns were founded in Roman times such as Noviomagum, now Nijmegen Ultratrajectum, now Utrecht, and Mosae Trajectum, the Maastricht of today. In the days of Charlemagne, about the year 800, a number of towns were founded which soon became flourishing centres of trade. Most towns, however, date from about the 12th or the 13th centuries, and some particularly in the north, are of later date. Even today towns and villages are still being founded, for instance on the new land reclaimed from the former Zuyder Zee (now Lake Yssel).

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## THE LAW

In the Netherlands, the ordinary administration of justice is the adjudication of disputes relating to property and the rights issuing therefrom, to debts and to civil rights, and the application of the rules of the criminal law is entrusted exclusively to appointed judges. Except in very few cases specified by the law, they are professional judges, who have studied law at a Dutch university. Trial by jury is unknown in the Netherlands. Judges are independent, they are *nominal*ly appointed for life, but in fact are retired on reaching the age of 70. While the *procedures for the administration of justice* are mainly embodied in the Code of Civil Procedure and the Criminal Procedure Code, administrative law is laid down

in several Statutes. The latter is administered partly by ordinary judges, partly by special administrative tribunals, whose members are appointed either for life or for a specific period. Moreover, there is no generally applicable procedure for dealing with administrative disputes, each type of tribunal observing its own statutory rules.

Arbitration procedure is dealt with in a separate paragraph below.

### The Structure of the Judiciary

The ordinary administration of justice devolves upon 62 Cantonal Courts (Kantongerecht), 19 District Courts (Arrondissementsrechtbank), 5 Courts of Appeal (Gerechtshof) and the Supreme Court (Hoge Raad der Nederlanden). The Cantonal and District Courts are courts of first instance, with certain exceptions, appeals lie to the District Courts or Courts of Appeal respectively. Each Court of Appeal is the superior court to a number of District Courts, each of which, in turn, is superior to a number of Cantonal Courts. This structure is primarily, of importance as regards (relative) appellate competence and the competence of the various members of the Department of Public Prosecutions. The most important function of the Supreme Court is as a court of last resort in cases involving non observance of procedural formalities or violation of the law.

The *Cantonal Courts* have jurisdiction in all civil cases where claims do not exceed the sum of five hundred guilders, tenancy claims and litigation relating to rents, contracts of employment and hire-purchase agreement. Cantonal Courts also hear such criminal cases involving misdemeanours as do not lie within the cognizance of the District Court, e.g. fiscal offences and offences against economic legislation (Dutch criminal law recognizes two categories of indictable offence only: misdemeanours and felonies).

Small Cantonal Courts have only one judge (Kantongerecht) larger courts several, Amsterdam, for example, has nine

Cantonal Court judges sit singly, except in the capacity of President of the Tenancy Division where the Cantonal judge is assisted by two assessors, one a landlord and one a tenant, who are appointed for periods of five years

The *District Courts* are courts of first instance in all civil cases outside the jurisdiction of the Cantonal Courts in divorce and bankruptcy cases and in criminal suits pertaining to almost all felonies and to those misdemeanours not dealt with by the Cantonal Courts They also have an appellate function in respect of appealable judgments given by the Cantonal Courts

The number of judges (rechters) attached to each District Court ranges from six to thirty eight (Amsterdam), depending on the volume of work District Court judges are assigned to one or more divisions, in each of which either one or three judges sit Courts in which the judge sits singly deal with appropriate civil cases, cases involving children (juvenile courts) criminal cases (the police courts) and indictable economic offences (the economic police courts) Juvenile courts deal with both civil and criminal actions Criminal suits may be tried in the police courts only when the case is factually and juridically simple and the sentence is not likely to exceed six months imprisonment

The President of the District Court is also competent to try cases summarily He can settle urgent civil cases by a simplified procedure and give an immediate judgment, he can, for instance, forbid or order certain actions under penalty of a daily fine to be paid by the defendant

The *Courts of Appeal* hear appeals from the District Courts The number of judges (raadsheer) attached to each Court of Appeal varies from nine in Leeuwarden to twenty-five

in Amsterdam These Courts also have divisions in each of which three judges sit, although there are single-judge divisions for fiscal cases There is a Tenancy Division attached to the Court of Appeal at Arnhem with five members two of them assessors This court hears appeals from the tenancy divisions of Cantonal Courts throughout the country

### **The Supreme Court**

The Supreme Court of the Netherlands is staffed by twenty justices and consists of a number of divisions of five members each (raadsheer)

It is the ultimate court of appeal against sentences passed by inferior courts The Supreme Court accepts the facts as having been established by those courts its main function being to ensure that the law is applied uniformly This function is also clearly expressed in the Court's authority to deal with a case in the interests of law when appeal in cassation is not brought A reversal of judgment in such a case does not change the sentence already passed by the inferior court but will of course affect subsequent sentences

By virtue of the Charter for the Kingdom of the Netherlands it is possible to extend the Supreme Court's jurisdiction to cases heard in the courts of Surinam and the Netherlands Antilles Statutory provisions have been made to this end for the Antilles only

The Supreme Court has certain other competences too for example it is the forum privilegiatum in respect of offences committed by Members of the States General and Ministers in the exercise of their office

### **The Department of Public Prosecutions**

Whereas in civil cases and administrative disputes the aggrieved party submits his case to the court criminal proceedings may be instituted by the Department of Public Prosecutions only Aggrieved parties in criminal cases are entitled to

lodge a complaint with the competent Court of Appeal only if the Department fails to prosecute

The Department of Public Prosecutions is composed of the Attorney General (Procureur-Generaal) and his deputies (Advocaat Generaal) at the Supreme Court, the five Attorneys General and their deputies at the Courts of Appeal, and the District Public Prosecutors and Deputy Public Prosecutors. The structure of the Department is hierarchical: one of the Public Prosecutors of each judicial district is Chief Public Prosecutor, the Public Prosecutors are subject to the supervision of the Attorney General at the Court of Appeal for their districts, and all come under the Minister of Justice. These members of the Department, like other civil servants, retire at the age of 65.

The positions of the Attorney General at the Supreme Court is different, he is independent and is appointed for life, though he is retired at the age of 70. The Attorney General (or one of his deputies) is consulted by the Supreme Court in all cases either criminal or civil brought before it. He thus gives his opinion on disputed legal questions. Only he has power to institute if necessary on his own initiative, an appeal to the Supreme Court in the interests of the law. The State, demanding proceedings in a criminal case, is represented by the Attorney General or one of his deputies at Court of Appeal sessions. The Public Prosecutor and Deputy Public Prosecutor fulfil the same function at District and Cantonal Courts. The entire Department of Public Prosecutions has a considerable degree of independence. Dutch law recognizes the principle of opportuneness as opposed to the principle of legality recognized in some other countries. This means that the Public Prosecutor is not bound to prosecute should an offence be made known to him except on the express order of the Court of Appeal (following a complaint of failure to prosecute, see above), the Minister or the Attorney General at the Court of Appeal.

#### **Military Law**

Members of the armed forces who are suspected of an offence under the Criminal Code or other statutory regulations

are tried by Courts Martial (Krijgsraad), which also deal with punishable offences listed in the Code of Military Criminal Law

In peacetime there are three District Courts Martial for the Army and the Air Force in the Netherlands and one in Surinam. There are Permanent Naval Courts Martial in the Netherlands and in the Netherlands Antilles. A Court Martial is presided over by a President, who must be a lawyer and who is appointed for life (i.e. is retired at the age of 70), assisted by two officer members. A member of the armed forces in active service may not be appointed President of a District or Permanent Court Martial.

Appeals lie to the Courts Martial Appeals Court (Hoog Militair Gerechtshof) which is composed of six members: two lawyers and four officers. The President and the other lawyers are members of the Supreme Court of the Netherlands or of the Court of Appeal at The Hague. The law on military criminal procedure does not provide for appeals in cassation.

The Department of Public Prosecutions is represented by the Judge Advocate at District Army and Air Force Courts Martial, and by the Judge Advocate of the Fleet at the Permanent Naval Courts Martial. ~~Useless~~ members of the Department of Public Prosecutions are appointed to these functions. The Director of Public Prosecutions of the Court of Appeal at The Hague acts as Judge Advocate in the Courts Martial Appeals Court.

#### Administrative Law

The ordinary judge in the Netherlands takes it for granted that the authorities are bound to observe the same propriety in their dealings as befits the dealings between individuals. He is therefore authorized to pass judgment if the authorities are sued for tort, but he cannot interfere in government policy.

Dutch law makes ample provision for the settlement of administrative disputes. Appeals against decisions relating to the enforcement of the fiscal laws, for example, lie to the fiscals

divisions of the Courts of Appeal. There are special administrative tribunals which hear appeals against decisions enforcing social insurance legislation, civil service regulations and many other regulations in the economic and social spheres.

For many years the establishment of general rules was advocated in respect of administrative decisions against which no appeal lay by virtue of special provisions. In 1964 the Administrative Decisions Appeal Act came into force, providing for appeal to the Crown against decisions of the central government.

Legislation providing for appeals against decisions of local authorities is now being drafted.

The procedure for dealing with disputes between public bodies is dealt with in the chapter on the Council of State.

### **Arbitration**

Arbitration, to which parties submit voluntarily, is fairly frequently resorted to in the Netherlands for the settlement of disputes on points of civil law. Many organizations, including the Association of Stockbrokers, the associations of dealers in cereals, sub-tropical fruits and flower bulbs, and the associations of building contractors, architects, printers, etc., make provision therefor in their constitutions. The arbitrators can be chosen at will, they are often lawyers who are experts in the particular field involved. Providing the parties have agreed thereto, appeals may be made to the Courts against the decisions of the arbitrators.

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